

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM MAY 17, 2011
OPEN SESSION

MINUTES OF MAY 17, 2011 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN JIMMY FIELD, VICE CHAIR CLYDE HOLLOWAY AND COMMISSIONERS FOSTER CAMPBELL, LAMBERT BOISSIERE AND ERIC SKRMETTA. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of May 17, 2011, convening at 9:30 A.M. and adjourning at 1:18 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Skrmetta directed Staff to open a rulemaking for Transportation and Utilities to examine procedures for the enforcement of the payment of accurate Inspection and Supervision fees, including audit procedures, a hearing process and the establishment of fines and fees for the failure to properly report and pay said fees.

Commissioner Field congratulated Peggy Lantrip on graduating from BRCC yesterday.

Ex. 2 **T-31901** - Louisiana Public Service Commission vs. Professional Moving Services Inc. (Des Allemands, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating intrastate without LPSC authority by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164E(1).

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exert its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept Staff Recommendation and approve the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$500.00 and further agreed to pay a citation fee of \$25.00, for a total of \$525.00, to be paid within 15 days of the issuance of the Order herein.

Ex. 3 Reliable Onshore Service, LLC. Discussion and possible vote on request of Coastal Commerce Bank, as mortgagee of Common Carrier Certificate 6857-A, for a third six month suspension of authority, due to the Carrier's bankruptcy.

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the lender, Coastal Commerce Bank, a third sixth month suspension of Common Carrier Certificate 6857-A.

Ex. 4 **S-31092** - BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana, ex parte. In re: Petition to remove regulatory restrictions imposed in LPSC Order No. U-22252-E (win back activities).

In re: Discussion and Possible Vote on Staff's Final Recommendation.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Staff Final Recommendation as filed into the record on May 2, 2011.

Ex. 5 **S-31741** - BellSouth Telecommunications Inc., d/b/a AT&T Louisiana, ex parte. In re: Motion to Approve Modifications to Performance Measurement Plan adopted in docket U-22252 Subdocket C.

In re: Discussion and possible vote to adopt Staff's Report and Recommendation.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant the Motion to Approve Modifications, as filed. It was further noted that the method in which these modifications have been agreed upon is consistent with all prior modifications to the Louisiana SQM/SEEM and the region-wide plans. Finally, the Commission directs AT&T, upon adoption of this motion, to submit the SQM/SEEM plan as modified.

Ex. 6 **S-31863** - Concordia Electric Cooperative, Inc., ex parte. In re: Request for a letter of non-opposition to the long-term borrowing of funds from the Rural Utilities Service.

In re: Discussion and possible vote on Concordia's request for a letter of non-opposition.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and issue the letter of non-opposition subject to the following conditions: 1) That Concordia submit to the LPSC Economics Division a copy of the loan agreement signed both by Concordia and by the Federal Financing Bank, setting out the loan terms within 30 days of closing; 2) That the Commission makes no determination regarding the reasonableness of the actual interest rates applied to this borrowing; 3) That Concordia agrees to maintain its records regarding the loan agreement for a period of not less than five years after the loan is repaid "in full"; 4) That Concordia will not apply to the Commission for an increase in its rates and charges as a result of the impact that this additional borrowing might have on its rate of return on equity, rate base and overall results of operation for its systems; and 5) That the Commission reach no conclusions regarding any of the Company's representations and reserve the right to review the ratemaking treatment of this proposal in its review of subsequent rate proceedings

Ex. 7 **U-31835** - South Louisiana Electric Cooperative Association (SLECA), ex parte. In re: Application for approval of a formula rate plan (FRP) and initial revenue adjustment.

In re: Discussion and possible vote to hire an outside consultant to assist Staff in this matter.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to retain the consulting firm of J. Kennedy and Associates for a budget of consultant fees not to exceed \$22,000 and expenses not to exceed \$800, for a total budget of \$22,800.

Ex. 8 **U-23327 Sub E** - Southwestern Electric Power Company, ex parte. In re: Investigation of Southwestern Electric Power Company; Fuel Audit Conducted Pursuant to Merger Order U-23327 (and General Order No. U-21497)

In re: Discussion and possible vote on Stipulated Settlement.

On motion of Commissioner Campbell, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the uncontested stipulated settlement as filed into the record on April 13, 2011.

Ex. 9 **U-27469 Sub A** - Louisiana Public Service Commission, ex parte. In re: Examination into whether Entergy Gulf States, Inc. and Entergy Louisiana, Inc.'s proposed new "avoided cost" calculation methodology is proper and allowable under Commission General Order dated February 27, 1998 (Docket No. U-22739) - Audit of Time Period from January 1, 2008 through December 31, 2008.

In re: Discussion and Possible Vote to Accept Uncontested Audit Report As Filed and Implement Recommendations Therein.

On motion of Commissioner Field, seconded by Commissioner Holloway, with Commissioners Campbell and Boissiere concurring and Commissioner Skrmetta temporarily absent, the Commission voted to accept the Staff Recommendation and approve the "Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC Audit of Avoided Cost Calculation 2008 and

2009 Data" filed into the record on May 5, 2011. It was further ordered that the QFs make refunds in the amounts identified in that audit report and in accordance with the requirements of Order No. U-27469-B. EGSL and ELL hereby is required to file into the record of this docket compliance reports sufficient to allow Commission Staff to verify that the appropriate payments have been made by the QFs to EGSL and ELL and returned to customers through their respective Fuel Adjustment Clauses. Finally, the proposed "materiality standard" and SCADA recommendations are hereby adopted and Staff is directed to take the appropriate steps to make conforming changes to the Commission's Avoided Cost General Order.

Ex. 10 **U-28814 Consolidated** - Atmos Energy Corporation, ex parte. In re: 2010 Rate Stabilization Clause filing for Louisiana Gas Service rate division.

In re: Discussion and possible vote on budget extension of Exeter Associates, Inc

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorize Exeter Associates, Inc. to assist Staff with the review of LGS's 2010 annual report for an additional budget of \$6,000.

Ex. 11 **U-30192 Phase III** - Entergy Louisiana, LLC, ex parte: In re: Application of Entergy Louisiana, LLC for Approval to Repower Little Gypsy Unit 3 Electric Generating Facility and for Authority to Commence Construction and for Certain Cost Protection and Cost Recovery.

In re: Discussion and Possible Vote to approve Uncontested Stipulated Settlement resolving all Phase III issues.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Campbell and Boissiere concurring and Commissioner Holloway abstaining, the Commission voted to accept the Staff Recommendation and approve the Stipulation as filed into the record on April 20, 2011.

Ex. 12 **U-31816** - Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Test year 2010 Rate Stabilization Plan Filing.

In re: Discussion and possible vote on Motion for Entry of Order Accepting Uncontested Joint Report.

On motion of Commissioner Holloway, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the report and draft order as filed into the record on May 6, 2011.

Ex. 13 **R-31813** - Louisiana Public Service Commission, ex parte. In re: Study of the feasibility of formally adopting the provisions of the National Electric Safety Code or any other, similar safety code as the standard for the safe installation, operation and maintenance of overhead and underground electrical facilities and utility poles to be applicable to industries owning, leasing or using utility poles in the State of Louisiana.

In re: Discussion and possible vote on Staff's proposed Draft Rule.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve and adopt the Staff's Draft Rule as amended on May 13, 2011. The Commission further directed Staff to report to the House of Representatives Committee on Commerce and the Senate Committee on Commerce, Consumer Protection and International Affairs regarding its findings in this docket and the approval and adoption of the Draft Rule (as Amended on May 13, 2011) prior to the final adjournment of the 2011 Regular Session of the Louisiana Legislature.

Commissioner Skrmetta further directed Staff that a copy be provided to Representative Templet as soon as possible.

through 180.1 as amended, by operating beyond the scope of authority granted in LPSC 7367 on two counts; allegedly occurring on or about December 8, 2009 through December 9, 2009.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, and agreed to pay a fine of \$2,000.00, per count, with \$1,000.00, per count of the fine being suspended, conditioned on not committing any additional violations within 12 months of the date of the Order and further agreed to pay a citation fee of \$25.00, the unsuspended portion of the fine and the citation fee, for a total of \$2,025.00, to be paid within 15 days of the issuance of the Order herein.

- Ex. 19 Reports Regarding Potential Service Disruptions and Contingency Plans from Electric Utilities with Operations Vulnerable to High River Levels

At the request of Commissioner Field.

The following company representatives reported to the Commission on their potential and current service disruptions and contingency plans: Jody Cotton, on behalf of Pointe Coupee Electric; Dennis Dawsey, on behalf of Entergy; John Shirley, on behalf of Cleco; John Vranic, on behalf of DEMCO; Wayne Phillips, on behalf of SLEMCO; Billy Harris, on behalf of Concordia Electric Cooperative.

- Ex. 20 Discussion of proposed AT&T merger with T-Mobile USA and the LPSC's review.

At the request of Commissioner Campbell.

On motion of Commissioner Skrmetta, seconded by Commissioner Campbell, with Commissioners Field and Boissiere concurring and Commissioner Holloway objecting, the Commission voted to review the AT&T/T-Mobile merger through a 301M proceeding.

- Ex. 21 LPSC, ex parte. In re: Renewal and extension of the contract with LaPorte Sehrt Romig Hand as Administrator of the Universal Service Fund.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Campbell, with Commissioner Holloway concurring and Commissioners Boissiere and Skrmetta objecting, the Commission voted to renew the LaPorte Sehrt Romig Hand contract for an additional three years, from June 15, 2011 to June 14, 2014.

The Commission directed Staff to bring this matter up again six months before the end of the next term in order to determine whether or not to issue RFPs.

- Ex. 22 **R-31417** - LPSC, ex parte. In re: Re-examination of the Commission's Net Energy Metering Rules found in General Order No. R-27558, dated November 30, 2005 (the "Net Metering Order")

In re: Discussion and Possible Vote on Staff's Proposed Changes to Net Metering Rules.

At the Request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Campbell and Boissiere concurring and Commissioner Holloway objecting, the Commission voted to 1) increase the generating capacity limit for net metering facilities for commercial or

agricultural use from the current limits of 100kW to 300k; 2) this changes the definition of net metering found in the definitions section of the rule; 3) the remainder of the recommendation in this rulemaking shall be bifurcated and fully vetted with all intervenors for Commission consideration at the June B&E, if possible.

Wade Byrd and Christopher Faust were recognized and given the opportunity to voice their concerns on the net metering rules.

Ex. 23 Upcoming certification application by Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. regarding a proposed self-build combined cycle gas turbine generating unit at ELL's Ninemile Point.

In re: Request to issue RFP for outside counsel and consultant.

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept Staff Recommendation and authorize the issuance of a request for proposals for outside counsel and consultants to assist Staff with the upcoming filing anticipated in June 2011 regarding the Ninemile 6 self-build project.

Ex. 24 Louisiana Public Service Commission v. Entergy Services, Inc., Docket No. EL01-88 at the Federal Energy Regulatory Commission and related compliance filings

In re: Possible Executive Session pursuant to LA R.S. 42:6.1 to discuss the filing of a complaint or complaints required as the result of FERC opinions

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to come out of Executive Session.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to authorize the Commission's special counsel and consultants in the Entergy System Agreement cases to bring a Section 206 complaint with respect to the unjust and unreasonable inclusion of out-of-period expenses in the rough equalization bandwidth calculation, which the judge held could not be considered in Docket ER09-1224, but has to be raised via a Section 206 Complaint. The use of outside counsel and consultants is required due to staffing and budget limitations. Counsel and consultants shall submit budget estimates for the proceeding to the Commission Secretary.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to authorize the Commission's special counsel and consultants in the Entergy System Agreement cases to bring a Section 206 complaint with respect to issues that the FERC would not consider in connection with the Docket ER09-636 proceeding related to the EAI and EMI notices of withdrawal, including the allocation of transmission costs for the Ouachita generating unit acquisition by EAI and the allocation of Union Pacific settlement benefits. The use of outside counsel and consultants is required due to budget and staffing limitations. Counsel and consultants shall submit budget estimates for the proceeding to the Commission Secretary.

MEETING ADJOURNED

The next Business and Executive Session will be held June 22, 2011 at 9:00 a.m. in Baton Rouge, Louisiana.